Court No. 3

Criminal Revision No. 506 of 2001
(Old No. 20/1994)

Bharat Bhushan .....Revisionist

Versus

State .....Opposite Party

Hon'ble Irshad Hussain, J.

None appeared for the revisionist. Revisionist could not be served for want of his availability on the address as recorded in the documents of the case. It appear that for want of the present whereabouts of the revisionist service of the notice is not practicable and possible. Therefore, I proceed to dispose of the revision on merit.

Heard Sri K.S. Rautela, learned A.G.A. and peruse the record.

The revisionist and one Kailash were arraigned as accused in a case under Section 7/16 of the Prevention of Food Adulteration Act. Cognizance against them was taken by the Magistrate concerned. Subsequently, one of the accused-Kailash ail to put into appearance and since the trial of the case was prolonging the learned CJM took a decision to separate the case of the absconding accused and decided to proceed against the accused-Bharat Bhushan who was recording his presence before the learned CJM in the case. The order to this effect was passed on 7.9.1993. The accused person in the case, namely, Bharat Bhushan got aggrieved by the said order and filed the present revision.

Considering the facts of the case, the order of the learned CJM cannot be said to be unjust and improper. When one of the accused was absconding and his attendance in the near future was not expected to be ensured, there was no justification to prolong the pendency of the trial against the other accused who was present and was attending the court. It was in the fitness of the things to separate the trial of the accused attending the court and therefore the impugned order cannot by any reasoning be said to be improper and illegal. There is no

merit in the revision which is liable to be dismissed. The revision is dismissed. Stay order dated 4.1.1994 is vacated.

The trail of the criminal case no. 763 of 1985 pending before the CJM, Nainital shall be expedited. The learned CJM shall take steps to ensure the presence of the revisionist-accused Bharat Bhushan by taking coercive measure, if necessary.

(Irshad Hussain, J.)

Dated 23.10.2003
Rawat